

MONDAY, SEPTEMBER 3, 1787.

JOURNAL

Monday Sept 3rd 1787.

It was moved and seconded to strike out the words

“judgments obtained in one State shall have in another” and to insert the word “thereof” after the word “effect” in the report from the Committee of five entered on the Journal of the 1st instant

which passed in the affirmative [Ayes — 6; noes — 3.]¹

It was moved and seconded to strike out the words “ought to” and to insert the word “shall” and to strike out the word “shall” and to insert the word “may” in the report entered on the Journal of the 1st instant.

which passed in the affirmative.

On the question to agree to the report amended as follows.

Full faith and credit shall be given in each State to the public Acts, records, and judicial proceedings of every other State, and the Legislature may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved and the effect thereof”

which passed in the affirmative

On the question to agree to the following clause of the report

“To establish uniform laws on the subject of bankruptcies”

it passed in the affirmative [Ayes — 9; noes — 1.]

[To adjourn Ayes — 2; noes — 8.]²

It was moved and seconded to postpone the consideration of the report from Committee of eleven entered on the Journal of the 1st instant, in order to take up the following

¹ Vote 434, Detail of Ayes and Noes, which notes that this was “Mr. Morris’s amendmt”.

² Vote 436, Detail of Ayes and Noes.

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The Members of each House shall be incapable of holding any office under the United States for which they or any other for their benefit receive any salary, fees, or emoluments of any kind and the acceptance of such office shall vacate their seats respectively

On the question to postpone

it passed in the negative. [Ayes — 2; noes — 8.]

[To adjourn Ayes — 4; noes — 6.]³

It was moved and seconded to insert the word “created” before the word “during” in the report of the Committee of eleven

which passed in the negative [Ayes — 5; noes — 5.]

It was moved and seconded to insert the words “created or the emoluments whereof shall have been increased” before the word “during” in the report of the Committee.

which passed in the affirmative [Ayes — 5; noes — 4; divided — 1.]

[on the last question Ayes — 5; noes — 3; divided — 1.]⁴

Separate questions having been taken on the report as amended they passed in the affirmative

and the report, as amended, is as follows

“The Members of each House shall be ineligible to any “civil office under the authority of the United States created, “or the emoluments whereof shall have been increased during the time for which they shall respectively be elected — “and no person holding any office under the United States “shall be a Member of either House during his continuance “in Office.”

The House then adjourned.

³ Vote 438, Detail of Ayes and Noes.

⁴ Vote 441, Detail of Ayes and Noes.

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DETAIL OF AYES AND NOES

	New Hampshire	Massachusetts	Rhode Island	Connecticut	New York	New Jersey	Pennsylvania	Delaware	Maryland	Virginia	No Carolina	So Carolina	Georgia	Questions	ayes	noes	divided
[434]	aye	aye	aye	aye	aye	aye	no	no	aye	aye	no	no	To agree to Mr Morris's amendmt to the report of the Come of five.	6	3		
[435]	aye	aye	no	aye	aye	aye	aye	aye	aye	aye	aye	aye	To establish uniform laws on the subject of bankruptcies	9	1		
[436]	no	no	no	no	no	no	aye	aye	no	no	no	no	To adjourn	2	8		
[437]	no	no	no	no	no	aye	no	no	aye	no	no	no	To adjourn	2	8		
[438]	no	no	no	no	aye	aye	aye	aye	aye	no	no	no	To adjourn	4	6		
[439]	aye	aye	no	no	aye	no	aye	aye	no	aye	no	no	To agree to the amendment "created"	5	5		
[440]	aye	aye	no	no	aye	no	aye	aye	no	dd	dd	dd	"created, or the emoluments whereof shall have been encreased"	5	4	1	
[441]	aye	aye	no	no	aye	no	aye	aye	no	dd	dd	dd	on the last question	5	3	1	

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Monday Sepr. 3. 1787. In Convention

Mr. Govr. Morris moved to amend the Report concerning the respect to be paid to Acts Records &c of one State, in other States (see Sepr. 1.) by striking out "judgments obtained in one State shall have in another" and to insert the word "thereof" after the word "effect"

Col: Mason favored the motion, particularly if the "effect" was to be restrained to judgments & Judicial proceedings

Mr. Wilson remarked, that if the Legislature were not allowed to *declare the effect* the provision would amount to nothing more than what now takes place among all Independent Nations.

Docr. Johnson thought the amendment as worded would authorize the Genl. Legislature to declare the effect of Legislative acts of one State, in another State.

Mr. Randolph considered it as strengthening the general

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objection agst. the plan, that its definition of the powers of the Government was so loose as to give it opportunities of usurping all the State powers. He was for not going farther than the Report, which enables the Legislature to provide for the effect of *Judgments*.

On the amendment as moved by Mr Govr. Morris

Mas. ay. Ct ay. N. J. ay. Pa. ay. Md. no. Va no. N. C. ay. S. C. ay. Geo. no. [Ayes — 6; noes — 3.]⁵

On motion of Mr. Madison, "ought to" was struck out, and "shall" inserted; and "shall" between "Legislature" & "by general laws" struck out, and "may" inserted, nem: con:

On the question to agree to the report as amended viz "Full faith & credit shall be given in each State to the public acts, records & judicial proceedings of every other State, and the Legislature may by general laws prescribe the manner in which such acts records & proceedings⁶ shall be proved, and the effect thereof" Agreed to witht. a count of Sts.

The clause in the Report "To establish uniform laws on the subject of Bankruptcies" being taken up.

Mr. Sherman observed that Bankruptcies were in some cases punishable with death by the laws of England— & He did not chuse to grant a power by which that might be done here.

Mr Govr Morris said this was an extensive & delicate subject. He would agree to it because he saw no danger of abuse of the power by the Legislature of the U— S.

On the question to agree to the clause

N. H. ay. Mas. ay. Ct. no. N. J— ay— Pa. ay. Md ay. Va. ay. N. C. ay. S. C. ay— Geo. ay. [Ayes — 9; noes — 1.]

Mr. Pinkney moved to postpone the Report of the Committee of Eleven (see Sepr. 1) in order to take up the following,

"The members of each House shall be incapable of holding any office under the U— S— for which they or any other for their benefit, receive any salary, fees or emoluments of

⁵ Crossed out "N. H. ay—" and "Del.—".

⁶ Crossed out: "judicial".

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any kind, and the acceptance of such office shall vacate their seats respectively.”⁷ He was strenuously opposed to an ineligibility of members to office, and therefore wished to restrain the proposition to a mere incompatibility. He considered the eligibility of members of the Legislature to the honorable offices of Government, as resembling the policy of the Romans, in making the temple of virtue the road to the temple of fame.

On this question

N. H. no. Mas. no. Ct no— N— J. no. Pa ay. Md. no Va. no. N. C. ay. S. C— no. Geo. no. [Ayes — 2; noes — 8.]

Mr King moved to insert the word “created” before the word “during” in the Report of the Committee. This he said would exclude⁸ the members of the first Legislature under the Constitution, as most of the Offices wd. then be created.

Mr. Williamson 2ded. the motion,⁹ He did not see why members of the Legislature should be ineligible to *vacancies* happening during the term of their election,¹⁰

Mr Sherman was for entirely incapacitating members of the Legislature. He thought their eligibility to offices would give too much influence to the Executive. He said the incapacity ought at least to be extended to cases where salaries should be *increased*, as well as *created*, during the term of the member. He mentioned also the expedient by which the restriction could be evaded to wit: an existing officer might be translated to an office created, and a member of the Legislature be then put into the office vacated.

Mr Govr. Morris contended that the eligibility of members to office wd. lessen the influence of the Executive. If they cannot be appointed themselves, the Executive will appoint their relations & friends, retaining the service & votes of

⁷ Upon this subject see above, Virginia Plan, May 29, June 12, June 22–23, June 26, Report of Committee of Detail, August 14, September 1, and Appendix A, CXLVIa, CLVIII (40–42), CXCI, CCX, CCXXXVI, CCLXXVII.

⁸ Crossed out “most who”.

⁹ Crossed out “tho”.

¹⁰ Crossed out “since they could not be influenced by an event wht. was in this contingency.”

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the members for his purposes in the Legislature. Whereas the appointment of the members deprives him of such an advantage.

Mr. Gerry. thought the eligibility of members would have the effect of opening batteries agst. good officers, in order to drive them out & make way for members of the Legislature.

Mr Gorham was in favor of the amendment. Without it we go further than has been done in any of the States, or indeed any other Country, The experience of the State Governments where there was no such ineligibility, proved that it was not necessary; on the contrary that the eligibility was among the inducements for fit men to enter into the Legislative service

Mr. Randolph was inflexibly fixed against inviting men into the Legislature by the prospect of being appointed to offices.

Mr. Baldwin remarked that the example of the States was not applicable. The Legislatures there are so numerous that an exclusion of their members would not leave proper men for offices. The case would be otherwise in the General Government.

Col: Mason. Instead of excluding merit, the ineligibility will keep out corruption, by excluding office-hunters.

Mr. Wilson considered the exclusion of members of the Legislature as increasing the influence of the Executive as observed by Mr Govr Morris at the same time that it would diminish, the general energy of the Government. He said that the legal disqualification for office would be odious to those who did not wish for office, but did not wish either to be marked by so degrading a distinction —

Mr Pinkney. The first Legislature will be composed of the ablest men to be found. The States will select such to put the Government into operation. Should the Report of the Committee or even the amendment be agreed to, The great offices, even those of the Judiciary Department which are to continue for life, must be filled whilst those most capable of filling them will be under a disqualification

On the question on Mr. King's motion

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N— H. ay. Mas. ay— Ct. no. N. J. no. Pa. ay. Md. no. Va. ay N— C. ay. S— C. no. Geo— no. [Ayes — 5; noes — 5.]

The amendment being thus lost by the equal division of the States, Mr Williamson moved to insert the words “created or the emoluments whereof shall have been increased” before the word “during” in the Report of the Committee

Mr. King 2ded. the motion. &

On the question

N— H— ay— Mas— ay— Ct. no. N— J. no. Pa. ay. Md. no. Va. ay. N— C. ay. S. C. no. Geo— divided. [Ayes — 5; noes — 4; divided — 1.]

The last clause rendering a Seat in the Legislature & an office incompatible was agreed to nem: con:

The Report as amended & agreed to is as follows.

“The members of each House shall be ineligible to any Civil office under the authority of the U. States, created, or the emoluments whereof shall have been increased during the time for which they shall respectively be elected — And no person holding any office under the U. S. shall be a member of either House during his continuance in office.”

Adjourned